REMARKS/ARGUMENTS

Claim 1-4, 6-11, 13-18, 20-21, and 25 were rejected under 35 USC § 102(b) as being anticipated by Kassardjian et al (U.S. Patent No. 5,568,708, "Kassardjian").

Applicant reminds the Examiner that claim 12 is not identified as being elected, however claims 13 through 16 that are elected are dependent from claim 12. Applicant requests the Examiner to include claim 12 in the prosecution.

The Examiner identified on page 3 of the Office Action that the Applicant's invention is directed only to cover and not to the core and method of usage thereof. Applicant directs the Examiner's attention to the fact that the claims identify that the cover is adapted for use with a spacecraft. This is further supported by the written description. Limitations on the cover are tied to the application of the cover to a spacecraft. This is also identified in the claims and the specification.

Claim Rejection – 35 USC § 102

I. Explicit limitation

As stated by the Court in the case of In re Wertheim, 646 F.2d 527, 533-534 (C.C.P.A. 1981) (referencing In re Lund, 376 F.2d 982, 153 USPQ 625 (C.C.P.A. 1967)), "It seems to us that the sine qua non of § 102(e) and the Milburn case is that, consistent with the gain to the public which the patent laws mean to secure, a patent must issue which contains, explicitly or implicitly, the description of an invention which is to be relied on to defeat a later inventor's patent rights." This is in keeping with the general rule that anticipation requires identity of invention. It is settled that "a party asserting that a patent claim is anticipated must demonstrate, among other things, identity of invention." Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 771, 218 U.S.P.Q. (BNA)

781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026, 104 S. Ct. 1284, 79 L. Ed. 2d 687, 224 U.S.P.Q. (BNA) 520 (1984). Further, identity of invention is a question of fact and the challenger must ordinarily show that each element of the claim in issue is found in a prior patent or publication, either expressly or under principles of inherency. Id. at 771, 218 U.S.P.Q. at 789. " Tyler Refrigeration v. Kysor Indus. Corp., 777 F.2d 687, 689 (Fed. Cir. 1985).

Thus, for the Kassardjian patent to qualify as prior art for 35 USC § 102(e), each and every claim limitation in the present case must be found within the Kassardjian patent explicitly or implicitly. This is not the case.

Claim 1

The present application includes the following claim limitations in Claim 1, an independent claim, that do not exist in the Kassardjian reference:

1. the arcuate exterior surface of the first segment adapted to provide protection to the inflatable shell from unwanted contact with the core during the pre-deployed configuration.

2. the arcuate exterior surface is removably attached to the interior surface of the inflatable shell during the deployed configuration.

3. a second segment having a substantially flat surface and the second segment being adapted to substantially secure items in place when the arcuate exterior surface is fastened to the interior surface of the inflatable shell in the deployed configuration.

4. a plurality of attachment elements disposed on the ribs adapted to cooperate with the attachment elements on the longeron such that the cover is releasably attached to the core in the pre-deployed configuration.

As illustrated below, the Kassardjian reference is directed to a cover for a concrete reinforcing bar:

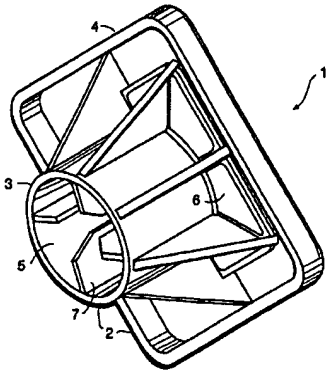

FIG. 1

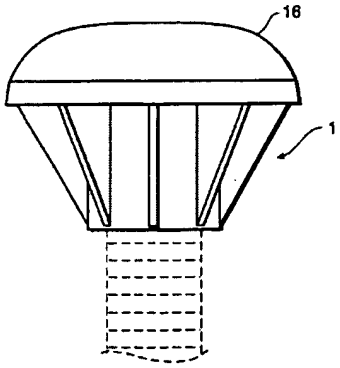

FIG. 7

The specification of the Kassardjian patent identifies the field of the invention:

"The present invention relates to a protective cover for projecting ends of rods and more particularly, to a protective cover used during construction for placement over the projecting ends of steel reinforcing bars."
Kassardjian Column 1, starting at lien 11.

Claim 1 of the present application identifies that the surface of the first segment is adapted to provide protection to the inflatable shell from unwanted contact with the core

during the pre-deployed configuration of a spacecraft. Kassardjian makes no references to the cover being adapted for such a purpose.

Further, Claim 1 identifies that the arcuate exterior surface is removably attached to the interior surface of the inflatable shell during the deployed configuration. What appears to be the correlating arcuate exterior surface of the Kassardjian identified by the Examiner is not removably detachable from the steel reinforcing bars, nor is any element of the Kassardjian invention adapted to attach to an inflatable shell during deployment of a spacecraft. Along the same lines of reasoning, Claim 1 also identifies that a plurality of attachment elements disposed on the ribs are adapted to cooperate with the attachment elements on the longeron such that the cover is releasably attached to the core in the pre-deployed configuration. Again, Kassardjian does not have attachment elements and the parts surrounding the outside of part 3 as identified by the Examiner cannot perform the same function in regards to being releasably attached to the longeron of a spacecraft as identified within the present application.

Finally, Claim 1 identifies the limitation of a second segment having a substantially flat surface and the second segment being adapted to substantially secure items in place when the arcuate exterior surface is fastened to the interior surface of the inflatable shell in the deployed configuration. Nothing in Kassardjian addresses a substantially flat surface adapted to hold items in place. Also, nothing in Kassardjian suggests the concrete end cap of the Kassardjian invention is adapted to fasten to the interior surface of the inflatable shell of a deployed spacecraft.

Claim 2 and dependent claims thereof

The present application includes the following claim limitations in Claim 2, an independent claim, that do not exist in the Kassardjian reference:

1. the attachment elements on the ribs cooperating with the attachment elements on the core such that the cover is removably attached to the core.

Kassardjian does not have attachment elements and the parts surrounding the outside of part 3 as identified by the Examiner cannot perform the same function in regards to being releasably attached to the longeron of a spacecraft as identified within the present application. Further, the attachment elements in the present application must be capable of cooperating with attachment elements on the core of a spacecraft. Kassardjian does not disclose or suggest that any attachment elements are capable of cooperating with any other types of attachment elements of any other structures. Finally, the attachment elements must be on the ribs. This limitation is not found in the Kassardjian reference.

Claims 4, 6, 7, 8 and 25 depend from Claim 2 and are allowable for the same reason as Claim 2 is allowable.

Claim 9 and dependent claims thereof

Claim 9, an independent claim, of the present application includes the following limitation that is not found in the Kassardjian reference:

1. the attachment elements on the ribs cooperating with the attachment elements on the braces such that the cover is removably attached to the braces.

Kassardjian does not have attachment elements and the parts surrounding the outside of part 3 as identified by the Examiner cannot perform the same function in regards to being removably attached to the braces of a spacecraft as identified within the present application. Kassardjian does not disclose or suggest that any attachment elements are capable of cooperating with any other types of attachment elements of any

other structures. Finally, the attachment elements must be on the ribs. This limitation is not found in the Kassardjian reference.

Claims 11 and 13 depend from claim 9 and are therefore are allowable for the same reason as is Claim 9.

Claim 14 and dependent claims thereof

Claim 14, an independent claim, of the present application includes the following limitation that is not found in the Kassardjian reference:

1. the attachment elements on the ribs cooperating with the attachment elements on the longerons such that the cover is removably attached to the longerons.

Kassardjian does not have attachment elements and the parts surrounding the outside of part 3 as identified by the Examiner cannot perform the same function in regards to being releasably attached to the longeron of a spacecraft as identified within the present application. Further, the attachment elements in the present application must be capable of cooperating with attachment elements on the core of a spacecraft. Kassardjian does not disclose or suggest that any attachment elements are capable of cooperating with any other types of attachment elements of any other structures. Finally, the attachment elements must be on the ribs. This limitation is not found in the Kassardjian reference.

Claims 15, 16, 17, 18, and 20 depend from claim 9 and are therefore are allowable for the same reason as is Claim 9.

Claim 21

Claim 21, an independent claim, of the present application includes the following limitation that is not found in the Kassardjian reference:

1. a plurality of ribs disposed between, and joined to, the inner surface of the first segment and the substantially flat surface of the second segment and the ribs having a plurality of attachment elements for cooperating with the attachment elements on the core.

Kassardjian does not have attachment elements and the parts surrounding the outside of part 3 as identified by the Examiner cannot perform the same function in regards to being releasably attached to the core of a spacecraft as identified within the present application. Further, the attachment elements in the present application must be capable of cooperating with attachment elements on the core of a spacecraft. Kassardjian does not disclose or suggest that any attachment elements are capable of cooperating with any other types of attachment elements of any other structures. Finally, the attachment elements must be on the ribs. This limitation is not found in the Kassardjian reference.

Claim 21 contains limitations not identified in the Kassardjian reference and is therefore allowable.

II. Implicit Limitation

An implicit limitation must be inherent to the proffered prior art. Tyler Refrigeration v. Kysor Indus. Corp., 777 F.2d 687, 689 (Fed. Cir. 1985) ("[T]he district court found by clear and convincing evidence that the maintenance of the air curtain during the defrost cycle is an inherent feature of the claimed embodiment and naturally occurs when the air flow in the secondary band is reversed.") The Kassardjian reference does not incorporate implicitly the aforementioned limitations of the cover.

The Kassardjian reference is directed to the construction trade and the use of concrete reinforcement base and steel reinforcement bars. The present invention is directed to a cover for use with a spacecraft having an inflatable shell. These two fields of technology are very far apart. There is no reference in the Kassardjian reference to tie the Kassardjian invention to a spacecraft, inflatable structure, longerons or braces. Further, nothing in the Kassardjian reference addresses the removability and releasability of the present invention as to the area of spacecraft or structures thereof.

Applicant contends that the anticipation rejection has been overcome.

Conclusion

Applicant believes the application is now in a condition for allowance and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If the Applicant's attorney can be of any further assistance, please call the undersigned at the number provided.

Respectfully submitted,

Dated: 8-10-06

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as required for Express Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 8-10, 2006

Dated: 8-10-06

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